

In re U.S. Patent Application of Jens PETERSEN  
Serial No.: 09/938,669 Filing Date: August 27, 2001  
Title: POLYACRYLAMIDE HYDROGEL AS A SOFT TISSUE FILLER  
ENDOPROSTHESIS

### **REMARKS**

#### **I. Statement:**

A telephonic Examiner interview was held on December 19, 2004. During the interview, the amendment to currently pending claim 27 in the Supplemental Response was discussed in view of U.S. Patent No. 5,658,329 to Purkait ("Purkait").

The Examiner stated the claims would be allowable if language omitted in claim 27 submitted on December 9, 2004 was reinstated in the claim. Specifically, the Examiner stated that "made by a method comprising combining acrylamide and methylene bis-acrylamide" and "wherein the device is injectable into soft tissue" should remain in the claim to further distinguish Purkait from the Applicant's invention. The Examiner, however, stated that "washing" did not need to be included. Applicant appreciates the Examiner's telephone call and comments.

#### **II. Amendments and New Claim**

Reconsideration of rejections in this application is respectfully requested. Upon entry of the foregoing amendment, claims 27-42 and 44-48 are pending in the Application. Claims 27-30, 33 and 44-47 are amended. Claim 43 is cancelled. New claim 48 is added.

Applicant respectfully requests entry of the above amendment and submits that the amendment does not introduce new matter. Claim 27 is amended to incorporate the limitation of claim 43 and to re-introduce the language suggested by the Examiner. Claims 28-30, 33 and 44-47 are amended for consistency with an antecedent in claim 27. Support for the amendments to the claims and the new claims can be found throughout the specification (considered as a whole)

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and in the claims as originally filed. Support for added claim 48 can be found, *inter alia*, in the specification at page 5, lines 15-18.

Based on the above amendment and the following remarks, Applicant respectfully requests that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

### **III. Claim Rejections**

Claims 27-30 and 33-42 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Purkait. Independent claim 27, from which all remaining claims depend, has been amended to reflect that the prosthetic device of the Application does not include a shell or membrane containing a filling material and is injectable, and thus, it is distinguished from the device described in Purkait.

Applicant continues to maintain that the claims, prior to their amendment herein, were not obvious in view of Purkait. Nonetheless, in the interest of expediting prosecution, Applicant amended claim 27 as suggested by the Examiner in the telephonic interview to include language previously included in the claim but omitted in the last amendment. Applicant respectfully submits that the rejections over Purkait should be withdrawn.

### **IV. Claim Objections**

Claims 31-33 are objected to as dependent upon a rejected base claim. In view of the amendment to claim 27 as discussed above, Applicant respectfully submits that this objection is rendered moot.

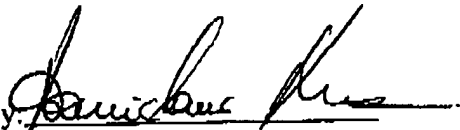
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**CONCLUSION**

For at least these reasons, Applicant requests that the Application be allowed and passed to issue. In the event any outstanding issues remain, Applicant would appreciate the courtesy of a telephone call to Applicant's undersigned representative to resolve such issues in an expeditious manner.

It is believed that no fees are due. However, if it is determined that fees are required, the Commissioner is authorized to charge such fees to the undersigned's Deposit Account No. 50-0206.

Respectfully submitted,

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Date: December 22, 2004

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